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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 DANIEL LICEA JIMENEZ,  
12  
13 v. Petitioner,  
14 LARRY SMALL, Warden, et al.,  
15 Respondents.  
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Case No. 09cv2031 BTM(NLS)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION; GRANTING  
IN PART AND DENYING IN PART  
MOTION TO DISMISS; DISMISSING  
PETITION WITH PREJUDICE; AND  
DENYING A CERTIFICATE OF  
APPEALABILITY**

17 In a Report and Recommendation filed on November 18, 2009, Magistrate Judge  
18 Stormes recommends that Respondent's motion to dismiss the Petition for Writ of Habeas  
19 Corpus ("Petition") be granted in part and denied in part and that the Petition be dismissed  
20 with prejudice. No objections to the Report and Recommendation have been filed.

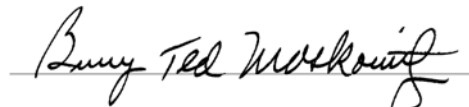
21 The Court concludes that the Report and Recommendation correctly applies the  
22 relevant law to the record. For the reasons set forth in the Report and Recommendation,  
23 Petitioner's Petition is barred by the one-year statute of limitations set forth in 28 U.S.C. §  
24 2244(d). Therefore, the Court orders:

- 25 1. The Report and Recommendation filed on November 18, 2009 is **ADOPTED**  
26 as the decision of this Court.  
27 2. Respondent's Motion to Dismiss is **GRANTED IN PART** and **DENIED IN**  
28 **PART.**

2. The Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE**.
3. A Certificate of Appealability is **DENIED**.
4. The Clerk shall enter judgment dismissing the Petition with prejudice and denying a Certificate of Appealability.

**IT IS SO ORDERED.**

DATED: April 13, 2010



Honorable Barry Ted Moskowitz  
United States District Judge